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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,586	01/08/2002	Domenico Arabino	Q67753	1442

7590 06/24/2003  
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2100 Pennsylvania Avenue, N.W.  
Washington, DC 20037-3213

EXAMINER
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STRIMBU, GREGORY J

ART UNIT	PAPER NUMBER
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3634

DATE MAILED: 06/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/038,586

Applicant(s)

ARABINO, DOMENICO

Examiner

Gregory J. Strimbu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 14 April 2003 and 10 June 2003.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 4 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 4 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 20 September 2002 is: a) ☒ approved b) ☐ disapproved by the Examiner
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \*   c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

***Drawings***

The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on September 20, 2002 have been approved.

***Specification***

The abstract of the disclosure is objected to because recitations such as "the transverse base portion" on line 3 are confusing since it is unclear if the applicant is referring to the transverse base member set forth above or is attempting to set forth another element in addition to the one set forth above. It is suggested that the applicant insert a comma following "member" on line 8 to avoid confusion. Correction is required. See MPEP § 608.01(b).

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed. It is suggested that the applicant amend the title to include the safety feature of the invention. See the claim.

***Claim Rejections - 35 USC § 112***

The claim rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Recitations such as "the fixed" on line 14 render the claim indefinite because they lack antecedent basis.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The claim is rejected under 35 U.S.C. 103(a) as being unpatentable over the admitted prior art in figure 1 in view of Griesbach et al. The admitted prior art in figure 1 discloses a weather strip 1 for an edge 6 of an opening adapted to be closed by a motor driven closure element 8, the weather strip having a U shaped configuration 2 comprised of a transverse base member (not numbered, but seen in figure 1) and a pair of parallel gripping elements (not numbered, but seen in figure 1) extending from opposite ends of the transverse base portion in parallel relationship to each other, a wall member 12 disposed in spaced apart parallel relation to the transverse base portion and secured to the transverse base portion at opposite ends thereof to define a compartment 13, a pressure sensitive element 14 disposed in the compartment and comprised of a pair of flexible electrically conductive strips separated by electrically insulating elements disposed between lateral longitudinal edges of the strips, a longitudinal projection 19 protruding centrally from the wall member 12 into the compartment in engagement with the pressure sensitive element at a point in space relation to the longitudinal edges of the pressure sensitive element to maintain the pressure sensitive element spaced from the wall member 12 whereby upon application of pressure to the compartment by an obstruction located between the closure element

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and the weather strip the pressure sensitive element will be deformed about the projection as a result of the fixed central location of the projection in relation to the pressure sensitive element to bring the electrically conductive strips into contact with each other. The admitted prior art in figure 1 is silent concerning the projection being mounted on the transverse base member.

However, Griesbach et al., in figure 2, discloses a pressure sensitive switch comprising a base member 26 having a projection 38 to maintain a pressure sensitive element 32 spaced from the transverse base portion and so that the pressure sensitive element will always be deformed about the projection 38.

It would have been obvious to one of ordinary skill in the art to provide the admitted prior art in figure 1 a protrusion on the base member, as taught by Griesbach et al., to allow for the accurate transmission of force to the pressure sensor (see column 6, lines 23-24) or because it has been held that the mere reversal of the essential working parts of a device involves no more than routine skill in the art. *In re Einstein*, 8 USPQ 167.

### ***Response to Arguments***

Applicant's arguments submitted April 14, 2003 have been considered but are not persuasive.

It should first be noted that the applicant's arguments against the references individually, i.e., Griesbach et al., one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references.

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See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

With respect to the applicant's comments concerning the trapping force being exerted onto the pressure sensor directly, the applicant's attention is directed toward the admitted prior art of figure 1 which discloses the trapping force being directly exerted onto the pressure sensor.

**Conclusion**

**THIS ACTION IS NOT MADE FINAL.**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gregory J. Strimbu whose telephone number is 703-305-3979. The examiner can normally be reached on Monday through Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached on 703-308-2686. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3597 for regular communications and 703-305-3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-2168.



Gregory J. Strimbu  
Primary Examiner  
Art Unit 3634  
June 23, 2003